

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

FRED P. CAPPELLANO,

Defendant.

CASE NO. 8:05CR302

**MEMORANDUM
AND ORDER**

This matter is before the Court on a Report and Recommendation (Filing No. 20) of a Magistrate Judge recommending that I accept the Defendant's plea of guilty. There are no objections to the Report and Recommendation. Pursuant to 28 U.S.C. § 636(b)(1)(C) and NECrimR 11.2(d), the Court has conducted a de novo review of the record.

IT IS ORDERED:

1. The Report and Recommendation (Filing No. 20) is adopted;
2. The Defendant is found guilty. The plea is accepted. The Court finds that the plea of guilty is knowing, intelligent, voluntary, and that a factual basis exists for the plea;
3. I defer acceptance of the plea agreement until the time of sentencing pursuant to Federal Rule of Criminal Procedure 11(c)(3). Unless otherwise stated at the time of sentencing, the plea agreement will be deemed accepted upon the pronouncement of the judgment and sentence; and
4. This case shall proceed to sentencing.

DATED this 24th day of October, 2005.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge